

# House File 595 - Reprinted

HOUSE FILE 595  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 104)

(As Amended and Passed by the House March 21, 2023)

## A BILL FOR

1 An Act relating to controlled substances including the  
2 manufacture, delivery, or possession of a controlled  
3 substance including fentanyl; the manufacture of a  
4 controlled substance in the presence of a minor; conspiracy  
5 to manufacture for delivery or delivery or intent or  
6 conspiracy to deliver a controlled substance to a  
7 minor; receipt, provision, and administration of opioid  
8 antagonists, including by secondary distributors; providing  
9 for immunity; and providing penalties.  
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MANUFACTURE, DELIVERY, OR POSSESSION OF A CONTROLLED SUBSTANCE

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (8), Code 2023, is amended to read as follows:

(8) More than ten kilograms of a mixture or substance containing any detectable amount of those substances identified in section 124.204, subsection 9, except for a mixture or substance containing any detectable amount of fentanyl or any fentanyl-related substance identified in section 124.204, subsection 9.

Sec. 2. Section 124.401, subsection 1, paragraph a, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) More than fifty grams of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in section 124.204, subsection 9.

Sec. 3. Section 124.401, subsection 1, paragraph b, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) More than five grams but not more than fifty grams of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in section 124.204, subsection 9.

Sec. 4. Section 124.401, subsection 1, paragraph c, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) Five grams or less of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in section 124.204, subsection 9.

Sec. 5. Section 124.401, subsection 1, Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *g.* A person who causes the death of another person while participating in a violation of this subsection and who is not entitled to protection under section 124.418, shall be sentenced to three times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be

1 deferred or suspended.

2 NEW PARAGRAPH. *h.* A person who causes serious bodily injury  
3 to another person while participating in a violation of this  
4 subsection and who is not entitled to protection under section  
5 124.418, shall be sentenced to two times the term otherwise  
6 imposed by law, and no such judgment, sentence, or part thereof  
7 shall be deferred or suspended.

8 NEW PARAGRAPH. *i.* For purposes of this subsection, a person  
9 causes the death or serious injury of another person when the  
10 controlled substance contributes to the other person's death  
11 or serious injury.

12 Sec. 6. Section 124.401C, subsection 1, Code 2023, is  
13 amended to read as follows:

14 1. In addition to any other penalties provided in this  
15 chapter, a person who is eighteen years of age or older and  
16 who either directly or by extraction from natural substances,  
17 or independently by means of chemical processes, or both,  
18 unlawfully manufactures ~~methamphetamine, its salts, isomers,~~  
19 ~~or salts of its isomers~~ a controlled substance, counterfeit  
20 substance, simulated controlled substance, or imitation  
21 controlled substance in violation of section 124.401,  
22 subsection 1, paragraph "a", "b", or "c", in the presence  
23 of a minor shall be sentenced up to an additional term of  
24 confinement of five years to two times the term otherwise  
25 imposed by law, and no such judgment, sentence, or part thereof  
26 shall be deferred or suspended. However, the additional term  
27 of confinement shall not be imposed on a person who has been  
28 convicted and sentenced for a child endangerment offense under  
29 section 726.6, subsection 1, paragraph "g", arising from the  
30 same facts.

31 Sec. 7. Section 124.401D, Code 2023, is amended to read as  
32 follows:

33 **124.401D Conspiracy to manufacture for delivery or delivery**  
34 **or intent or conspiracy to deliver amphetamine or methamphetamine**  
35 **to a minor.**

1     1. *a.* It is unlawful for a person eighteen years of age  
2 or older to act with, or enter into a common scheme or design  
3 with, or conspire with one or more persons to manufacture  
4 for delivery to a person under eighteen years of age a  
5 ~~material, compound, mixture, preparation, or substance that~~  
6 ~~contains any detectable amount of amphetamine, its salts,~~  
7 ~~isomers, or salts of its isomers, or methamphetamine, its~~  
8 ~~salts, isomers, or salts of its isomers~~ controlled substance,  
9 counterfeit substance, simulated controlled substance, or  
10 imitation controlled substance in violation of section 124.401,  
11 subsection 1, paragraph "a", "b", or "c".

12     *b.* A violation of ~~this subsection~~ is a felony punishable  
13 under ~~section 902.9, subsection 1,~~ paragraph "a" A person  
14 violating this subsection shall be sentenced to two times the  
15 term otherwise imposed under section 124.401, subsection 1, and  
16 no such judgment, sentence, or part thereof shall be deferred  
17 or suspended.

18     *c.* A second or subsequent violation of ~~this subsection~~ is a  
19 class "A" felony.

20     2. *a.* It is unlawful for a person eighteen years of age  
21 or older to deliver, or possess with the intent to deliver to  
22 a person under eighteen years of age, a ~~material, compound,~~  
23 ~~mixture, preparation, or substance that contains any detectable~~  
24 ~~amount of amphetamine, its salts, isomers, or salts of its~~  
25 ~~isomers, or methamphetamine, its salts, isomers, or salts~~  
26 ~~of its isomers~~ controlled substance, counterfeit substance,  
27 simulated controlled substance, or imitation controlled  
28 substance in violation of section 124.401, subsection 1,  
29 paragraph "a", "b", or "c", or to act with, or enter into a  
30 common scheme or design with, or conspire with one or more  
31 persons to deliver or possess with the intent to deliver to  
32 a person under eighteen years of age a ~~material, compound,~~  
33 ~~mixture, preparation, or substance that contains any detectable~~  
34 ~~amount of amphetamine, its salts, isomers, or salts of its~~  
35 ~~isomers, or methamphetamine, its salts, isomers, or salts~~

1 ~~of its isomers~~ controlled substance, counterfeit substance,  
 2 simulated controlled substance, or imitation controlled  
 3 substance in violation of section 124.401, subsection 1,  
 4 paragraph "a", "b", or "c".

5 ~~b. A violation of this subsection is a felony punishable~~  
 6 ~~under section 902.9, subsection 1, paragraph "a"~~ A person  
 7 violating this subsection shall be sentenced to two times the  
 8 term otherwise imposed under section 124.401, subsection 1, and  
 9 no such judgment, sentence, or part thereof shall be deferred  
 10 or suspended.

11 ~~c. A second or subsequent violation of this subsection is a~~  
 12 ~~class "A" felony.~~

13 3. Delivery to a minor or possession with intent to deliver  
 14 to a minor a controlled substance, counterfeit substance,  
 15 simulated controlled substance, or imitation controlled  
 16 substance in violation of section 124.401, subsection 1,  
 17 paragraph "a", "b", or "c", shall include the following products  
 18 if the person knew or had reasonable cause to believe the  
 19 controlled, counterfeit, simulated, or imitation controlled  
 20 substance would be delivered to a person under eighteen years  
 21 of age:

22 a. Combining a controlled substance listed in section  
 23 124.401, subsection 1, paragraph "a", "b", or "c", with a food  
 24 or beverage product.

25 b. Marketing or packaging a controlled substance listed in  
 26 section 124.401, subsection 1, paragraph "a", "b", or "c", to  
 27 appear similar to a food or beverage product.

28 c. Modifying the flavor or color of a controlled substance  
 29 listed in section 124.401, subsection 1, paragraph "a", "b", or  
 30 "c", to appear similar to a food or beverage product.

31 Sec. 8. Section 124.413, subsection 1, Code 2023, is amended  
 32 to read as follows:

33 1. Except as provided in subsection 3 and sections 901.11  
 34 and 901.12, a person sentenced pursuant to section 124.401,  
 35 subsection 1, paragraph "a", "b", "e", or "f", "g", or "h" shall

1 not be eligible for parole or work release until the person  
 2 has served a minimum term of confinement of one-third of the  
 3 maximum indeterminate sentence prescribed by law.

4 Sec. 9. Section 811.1, subsections 1 and 2, Code 2023, are  
 5 amended to read as follows:

6 1. A defendant awaiting judgment of conviction and  
 7 sentencing following either a plea or verdict of guilty of a  
 8 class "A" felony; forcible felony as defined in [section 702.11](#);  
 9 any class "B" felony included in [section 462A.14](#) or [707.6A](#); any  
 10 felony included in [section 124.401, subsection 1](#), paragraph  
 11 "a" or "b"; a second or subsequent offense under section  
 12 124.401, subsection 1, paragraph "c"; ~~any felony punishable~~  
 13 ~~under [section 902.9, subsection 1](#), paragraph "a"~~; any public  
 14 offense committed while detained pursuant to [section 229A.5](#);  
 15 or any public offense committed while subject to an order of  
 16 commitment pursuant to [chapter 229A](#).

17 2. A defendant appealing a conviction of a class "A"  
 18 felony; forcible felony as defined in [section 702.11](#); any class  
 19 "B" or "C" felony included in [section 462A.14](#) or [707.6A](#); any  
 20 felony included in [section 124.401, subsection 1](#), paragraph  
 21 "a" or "b"; or a second or subsequent conviction under section  
 22 124.401, subsection 1, paragraph "c"; ~~any felony punishable~~  
 23 ~~under [section 902.9, subsection 1](#), paragraph "a"~~; any public  
 24 offense committed while detained pursuant to [section 229A.5](#);  
 25 or any public offense committed while subject to an order of  
 26 commitment pursuant to [chapter 229A](#).

27 Sec. 10. Section 901.2, subsection 2, paragraph b, Code  
 28 2023, is amended to read as follows:

29 b. The court shall order a presentence investigation when  
 30 the offense is ~~any felony punishable under [section 902.9,](#)~~  
 31 ~~[subsection 1](#), paragraph "a"~~, or a class "B", class "C", or  
 32 class "D" felony. A presentence investigation for ~~any felony~~  
 33 ~~punishable under [section 902.9, subsection 1](#), paragraph "a"~~,  
 34 or a class "B", class "C", or class "D" felony shall not  
 35 be waived. The court may order, with the consent of the

1 defendant, that the presentence investigation begin prior to  
2 the acceptance of a plea of guilty, or prior to a verdict of  
3 guilty.

4 Sec. 11. Section 901.10, Code 2023, is amended by adding the  
5 following new subsection:

6 NEW SUBSECTION. 1A. A court sentencing a person for a  
7 violation of section 124.401, subsection 1, paragraph "g",  
8 shall not grant any reduction of sentence.

9 Sec. 12. Section 902.9, subsection 1, paragraph a, Code  
10 2023, is amended by striking the paragraph.

11 Sec. 13. Section 906.5, subsection 1, paragraph a, Code  
12 2023, is amended to read as follows:

13 a. The board shall establish and implement a plan by which  
14 the board systematically reviews the status of each person who  
15 has been committed to the custody of the director of the Iowa  
16 department of corrections and considers the person's prospects  
17 for parole or work release. The board at least annually shall  
18 review the status of a person other than a class "A" felon, a  
19 class "B" felon serving a sentence of more than twenty-five  
20 years, ~~or a felon serving an offense punishable under section~~  
21 ~~902.9, subsection 1, paragraph "a",~~ or a felon serving a  
22 mandatory minimum sentence other than a class "A" felon, and  
23 provide the person with notice of the board's parole or work  
24 release decision.

25 Sec. 14. REPEAL. Section 901.5A, Code 2023, is repealed.

26 DIVISION II

27 RECEIPT, PROVISION, AND ADMINISTRATION OF OPIOID ANTAGONISTS

28 Sec. 15. Section 135.190, subsection 1, Code 2023, is  
29 amended by adding the following new paragraphs:

30 NEW PARAGRAPH. 0a. "Community-based organization" means  
31 a public or private organization that provides health or  
32 human services to meet the needs of a community including but  
33 not limited to a nonprofit organization, a social service  
34 provider, or an organization providing substance abuse disorder  
35 prevention, treatment, recovery, or harm reduction services.

1     NEW PARAGRAPH.   *e.*   “*Secondary distributor*” means a law  
2 enforcement agency, emergency medical services program, fire  
3 department, school district, health care provider, licensed  
4 behavioral health provider, county health department, or the  
5 department of health and human services.

6     Sec. 16.   Section 135.190, subsection 1, paragraph d, Code  
7 2023, is amended to read as follows:

8     *d.*   “*Person in a position to assist*” means a family member,  
9 friend, caregiver, community-based organization, health care  
10 provider, employee of a substance abuse treatment facility,  
11 school employee, first responder as defined in section 147A.1,  
12 or other person who may be in a place to render aid to a person  
13 at risk of experiencing an opioid-related overdose.

14    Sec. 17.   Section 135.190, subsections 2 and 4, Code 2023,  
15 are amended to read as follows:

16    2.   *a.*   Notwithstanding any other provision of law to the  
17 contrary, a licensed health care professional may prescribe an  
18 opioid antagonist to a person in a position to assist or to a  
19 secondary distributor.

20    *b.*   (1) Notwithstanding any other provision of law to the  
21 contrary, a pharmacist licensed under chapter 155A may, by  
22 standing order or through collaborative agreement, dispense,  
23 furnish, or otherwise provide an opioid antagonist to a person  
24 in a position to assist or to a secondary distributor.

25    (2) A pharmacist or secondary distributor who dispenses,  
26 furnishes, or otherwise provides an opioid antagonist pursuant  
27 to a valid prescription, standing order, or collaborative  
28 agreement shall provide written instruction, which shall  
29 include emergency, crisis, and substance use referral contact  
30 information, to the recipient in accordance with any protocols  
31 and instructions developed by the department under this  
32 section.

33    4.   A person in a position to assist, a secondary  
34 distributor, or a prescriber of an opioid antagonist who has  
35 acted reasonably and in good faith shall not be liable for



1 any injury arising from the provision, administration, or  
2 assistance in the administration of an opioid antagonist as  
3 provided in [this section](#).

4 Sec. 18. Section 135.190, Code 2023, is amended by adding  
5 the following new subsections:

6 NEW SUBSECTION. 3A. Notwithstanding any other provision  
7 of law to the contrary, the chief medical officer of the  
8 department may issue a standing order that does not identify  
9 individual patients at the time it is issued for the purpose  
10 of dispensing opioid antagonists to a person in a position to  
11 assist.

12 NEW SUBSECTION. 3B. A person in a position to assist may  
13 distribute an opioid antagonist to any individual pursuant to  
14 this section.

15 Sec. 19. Section 147A.18, subsections 1 and 2, Code 2023,  
16 are amended to read as follows:

17 1. *a.* Notwithstanding any other provision of law to the  
18 contrary, a licensed health care professional may prescribe  
19 an opioid antagonist in the name of a service program,  
20 law enforcement agency, ~~or~~ fire department, or secondary  
21 distributor to be maintained for use as provided in this  
22 section. For purposes of this section, "secondary distributor"  
23 means the same as defined in section 135.190.

24 *b.* (1) Notwithstanding any other provision of law to the  
25 contrary, a pharmacist licensed under [chapter 155A](#) may, by  
26 standing order or through collaborative agreement, dispense,  
27 furnish, or otherwise provide an opioid antagonist in the  
28 name of a service program, law enforcement agency, ~~or~~ fire  
29 department, or secondary distributor to be maintained for use  
30 as provided in [this section](#).

31 (2) A pharmacist or secondary distributor who dispenses,  
32 furnishes, or otherwise provides an opioid antagonist pursuant  
33 to a valid prescription, standing order, or collaborative  
34 agreement shall provide written instruction, which shall  
35 include emergency, crisis, and substance referral contact

1 information, to the recipient in accordance with the protocols  
2 and instructions developed by the department under this  
3 section.

4 2. A service program, law enforcement agency, ~~or~~ fire  
5 department, or secondary distributor may obtain a prescription  
6 for and maintain a supply of opioid antagonists. A service  
7 program, law enforcement agency, ~~or~~ fire department, or  
8 secondary distributor that obtains such a prescription shall  
9 replace an opioid antagonist upon its use or expiration.

10 Sec. 20. Section 147A.18, Code 2023, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 3A. A secondary distributor may possess  
13 and provide an opioid antagonist to a person in a position to  
14 assist as defined in section 135.190.

15 Sec. 21. Section 147A.18, subsection 4, paragraph b, Code  
16 2023, is amended to read as follows:

17 *b.* A service program, law enforcement agency, ~~or~~ fire  
18 department, or secondary distributor.

19 Sec. 22. Section 147A.18, subsection 4, Code 2023, is  
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. *d.* The pharmacist who dispenses the opioid  
22 antagonist.

23 Sec. 23. Section 155A.3, subsections 24 and 54, Code 2023,  
24 are amended to read as follows:

25 24. "*Limited distributor*" means a person operating or  
26 maintaining a location, regardless of the location, where  
27 prescription drugs or devices are distributed at wholesale or  
28 to a patient pursuant to a prescription drug order, who is  
29 not eligible for a wholesale distributor license or pharmacy  
30 license. "Limited distributor" does not include a secondary  
31 distributor as defined in section 135.190.

32 54. "*Wholesale distributor*" means a person, other than  
33 a manufacturer, a manufacturer's co-licensed partner, a  
34 third-party logistics provider, or repackager, engaged in the  
35 wholesale distribution of a drug. "Wholesale distributor"

1 does not include a secondary distributor as defined in section  
2 135.190.

3       Sec. 24. Section 155A.46, subsection 1, paragraph a,  
4 subparagraph (1), Code 2023, is amended to read as follows:

5       (1) ~~Naloxone~~ Opioid antagonists for overdose reversals.